



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Adopt Resolution approving retention of Folger, Levin & Kahn as Outside Counsel and approve waiving the joint representation conflict

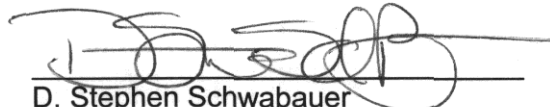
MEETING DATE: June 2, 2004

PREPARED BY: Interim City Attorney

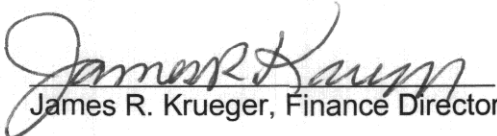
RECOMMENDED ACTION: That the City Council adopt a Resolution approving the retention of Folger, Levin & Kahn as Outside Counsel for the Environmental Abatement Program litigation, and further approve the waiving of the joint representation conflict.

BACKGROUND INFORMATION: Following a lengthy proposal process, we are now in the position to formalize the hiring of the law firm of Folger, Levin & Kahn to act as Outside Counsel to litigate the complex environmental lawsuits in which the City of Lodi is involved relating to the soil and water contamination.

Also before you this evening as a matter of law, it is necessary that the City Council acknowledge that a joint representation conflict exists in hiring the law firm of Folger, Levin & Kahn. The City Council if it so desires can approve the waiving of the joint representation conflict. By doing so, you acknowledge that there is a potential conflict in having a single firm represent two different entities (the City of Lodi and the Lodi Financing Corporation) who may during the course of the litigation have different interests.

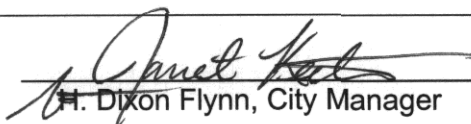

D. Stephen Schwabauer
Interim City Attorney

FUNDING: Water Fund


James R. Krueger, Finance Director

DSS/pn

APPROVED:


H. Dixon Flynn, City Manager

RESOLUTION NO. 2004-111

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING THE RETENTION OF FOLGER LEVIN &
KAHN AS OUTSIDE COUNSEL RELATING TO THE
ENVIRONMENTAL ABATEMENT PROGRAM
LITIGATION AND FURTHER APPROVING WAIVING
THE JOINT REPRESENTATION CONFLICT

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NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby authorizes the retention of the law firm of Folger, Levin & Kahn to serve as outside counsel for the Environmental Abatement Program litigation; and

BE IT FURTHER RESOLVED that the Lodi City Council does hereby approve waiving the joint representation conflict; and

BE IT FURTHER RESOLVED that funds will be derived from the Water/Wastewater accounts equally for this purpose.

Dated: June 2, 2004

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I hereby certify that Resolution No. 2004-111 was passed and adopted by the Lodi City Council in a regular meeting held June 2, 2004, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None



SUSAN J. BLACKSTON
City Clerk